

106TH CONGRESS
1ST SESSION

S. 1858

To revitalize the international competitiveness of the United States-flag maritime industry through tax relief.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 1999

Mr. BREAUX introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To revitalize the international competitiveness of the United States-flag maritime industry through tax relief.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Security Sea-
5 lift Enhancement Act of 1999”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—CAPITAL CONSTRUCTION FUND

Sec. 101. Amendments of Internal Revenue Code of 1986.

Sec. 102. Amendment to the Tariff Act of 1930.

Sec. 103. Effective date.

TITLE II—ELECTION TO EXPENSE UNITED STATES FLAG
VESSELS

Sec. 201. Election to expense certain United States flag vessels.

TITLE III—INCOME EXCLUSION FOR MERCHANT SEAMEN

Sec. 301. Income of merchant seaman excludable from gross income as foreign earned income.

TITLE IV—EXEMPTION FROM ALTERNATIVE MINIMUM TAX

Sec. 401. Exemption from alternative minimum tax for corporations that operate United States flag vessels.

TITLE V—CONVENTIONS ON UNITED STATES-FLAG CRUISE SHIPS

Sec. 501. Conventions on United States-flag cruise ships.

TITLE I—CAPITAL CONSTRUCTION FUND

SEC. 101. AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.

(a) TREATMENT OF CERTAIN LEASE PAYMENTS.—

(1) Paragraph (1) of section 7518(e) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, or”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) the payments of amounts which reduce the principal amount (as determined under regulations) of a qualified lease of a qualified vessel or container which is part of the complement of an eligible vessel.”.

1 (2) Paragraph (4) of section 7518(f) of such
 2 Code is amended by inserting “or to reduce the prin-
 3 cipal amount of any qualified lease” after “indebted-
 4 ness”.

5 (b) AUTHORITY TO MAKE DEPOSITS UNDER THE
 6 TARIFF ACT OF 1930.—

7 (1) Paragraph (1) of section 7518(a) of such
 8 Code is amended by striking “and” at the end of
 9 subparagraph (C), by striking the period at the end
 10 of subparagraph (D) and inserting “, and”, and by
 11 adding at the end the following new subparagraph:

12 “(E) the amount elected for deposit under
 13 subsection (i) of section 466 of the Tariff Act
 14 of 1930 (19 U.S.C. 1466).”.

15 (2) Subparagraph (A) of section 7518(d)(2) of
 16 such Code is amended to read as follows:

17 “(A) amounts referred to in subsections
 18 (a)(1)(B) and (E).”.

19 (c) AUTHORITY TO MAKE DEPOSITS FOR PRIOR
 20 YEARS BASED ON AUDIT ADJUSTMENTS.—Subsection (a)
 21 of section 7518 of such Code is amended by adding at
 22 the end thereof the following new paragraph:

23 “(4) DEPOSITS FOR PRIOR YEARS.—To the ex-
 24 tent permitted by joint regulations, deposits may be
 25 made in excess of the limitation described in para-

graph (1) (and any limitation specified in the agreement) for the taxable year if, by reason of a change in taxable income for a prior taxable year that has become final pursuant to a closing agreement or other similar agreement entered into during the taxable year, the amount of the deposit could have been made for such prior taxable year.”.

(d) TREATMENT OF CAPITAL GAINS AND LOSSES.—

(1) Paragraph (3) of section 7518(d) of such Code is amended to read as follows:

“(3) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

“(A) amounts representing long-term capital gains (as defined in section 1222) on assets held in the fund, reduced by

“(B) amounts representing long-term capital losses (as defined in such section) on assets held in the fund.”.

(2) Subparagraph (B) of section 7518(d)(4) of such Code is amended to read as follows:

“(B)(i) amounts representing short-term capital gains (as defined in section 1222) on assets held in the fund, reduced by

1 “(ii) amounts representing short-term cap-
 2 ital losses (as defined in such section) on assets
 3 held in the fund,”.

4 (3) Subparagraph (B) of section 7518(g)(3) of
 5 such Code is amended by striking “gain” and all
 6 that follows and inserting “long-term capital gain
 7 (as defined in section 1222), and”.

8 (4) The last sentence of subparagraph (A) of
 9 section 7518(g)(6) of such Code is amended by
 10 striking “20 percent (34 percent in the case of a
 11 corporation)” and inserting “the rate applicable to
 12 net capital gain under such section 1(h)(1)(C) or
 13 1201(a), as the case may be”.

14 (e) COMPUTATION OF INTEREST WITH RESPECT TO
 15 NONQUALIFIED WITHDRAWALS.—

16 (1) Subparagraph (C) of section 7518(g)(3) of
 17 such Code is amended—

18 (A) by striking clause (i) and inserting the
 19 following new clause:

20 “(i) no addition to the tax shall be
 21 payable under section 6651, and”, and

22 (B) by striking “paid at the applicable rate
 23 (as defined in paragraph (4))” in clause (ii) and
 24 inserting “paid in accordance with section
 25 6601”.

1 (2) Subsection (g) of section 7518 of such Code
 2 is amended by striking paragraph (4) and by redes-
 3 ignating paragraphs (5) and (6) as paragraphs (4)
 4 and (5), respectively.

5 (3) Subparagraph (A) of section 7518(g)(5) of
 6 such Code, as redesignated by paragraph (2), is
 7 amended by striking “paragraph (5)” and inserting
 8 “paragraph (4)”.

9 (f) OTHER CHANGES.—

10 (1) Paragraph (2) of section 7518(b) of such
 11 Code is amended by striking “interest-bearing secu-
 12 rities approved by the Secretary” and inserting “in-
 13 terest-bearing securities and other income-producing
 14 assets (including accounts receivable) approved by
 15 the Secretary”.

16 (2) The last sentence of paragraph (1) of sec-
 17 tion 7518(e) of such Code is amended by striking
 18 “and containers” each place it appears.

19 (3) Subparagraph (B) of section 543(a)(1) of
 20 such Code is amended to read as follows:

21 “(B) interest on amounts set aside in a
 22 capital construction fund under section 607 of
 23 the Merchant Marine Act, 1936 (46 App.
 24 U.S.C. 1177), or in a construction reserve fund

1 under section 511 of such Act (46 App. U.S.C.
2 1161),”.

3 (4) Subsection (c) of section 56 of such Code
4 is amended by striking paragraph (2) and by redesh-
5 ignating paragraph (3) as paragraph (2).

6 (5) Section 7518(e) is amended by adding at
7 the end the following new paragraph:

8 “(3) QUALIFIED WITHDRAWAL.—In the case of
9 amounts in any fund as of the date of the enactment
10 of this paragraph, and any earnings thereon, for
11 purposes of this subsection, the term ‘qualified with-
12 drawal’ has the meaning given such term by apply-
13 ing subsection (i)(2) as of such date.”

14 (g) DEFINITIONS.—Subsection (i) of section 7518 of
15 such Code is amended to read as follows:

16 “(i) DEFINITIONS.—

17 “(1) IN GENERAL.—Except as provided in para-
18 graph (2), terms used in this section shall have the
19 same meaning as in section 607(k) of the Merchant
20 Marine Act, 1936.

21 “(2) OTHER DEFINITIONS.—For the purposes
22 of this section—

23 “(A) The term ‘eligible vessel’ means any
24 vessel—

1 “(i) documented under the laws of the
2 United States, and

3 “(ii) operated in the foreign or domes-
4 tic commerce of the United States or in
5 the fisheries of the United States.

6 “(B) QUALIFIED VESSEL.—The term
7 ‘qualified vessel’ means any vessel—

8 “(i) constructed in the United States
9 and, if reconstructed, reconstructed in the
10 United States,

11 “(ii) documented under the laws of
12 the United States, and

13 “(iii) which the person maintaining
14 the fund agrees with the Secretary will be
15 operated in the fisheries of the United
16 States, or in the United States foreign,
17 Great Lakes, noncontiguous domestic
18 trade, or other oceangoing domestic trade
19 between two coastal points in the United
20 States or in support of operations con-
21 ducted on the Outer Continental Shelf.

22 “(C) VESSEL.—The term ‘vessel’ includes
23 containers or trailers intended for use as part
24 of the complement of one or more eligible ves-
25 sels and cargo handling equipment which the

Secretary determines is intended for use primarily on the vessel. The term ‘vessel’ also includes an ocean-going towing vessel or an ocean-going barge or comparable towing vessel or barge operated on the Great Lakes.

“(D) FOREIGN COMMERCE.—The terms ‘foreign commerce’ and ‘foreign trade’ have the meanings given such terms in section 905 of the Merchant Marine Act, 1936, except that these terms shall include commerce or trade between foreign ports.

“(E) QUALIFIED LEASE.—The term ‘qualified lease’ means any lease with a term of at least 5 years.”

SEC. 102. AMENDMENT TO THE TARIFF ACT OF 1930.

Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end the following new subsection:

“(i) ELECTION TO DEPOSIT DUTY INTO A CAPITAL CONSTRUCTION FUND IN LIEU OF PAYMENT TO THE SECRETARY OF THE TREASURY.—At the election of the owner or master of any vessel referred to in subsection (a) of this section which is an eligible vessel (as defined in section 7518(i)(2) of the Internal Revenue Code of 1986), the portion of any duty imposed by subsection (a)

1 which is deposited in a fund established under section 607
2 of the Merchant Marine Act, 1936 shall be treated as paid
3 to the Secretary of the Treasury in satisfaction of the li-
4 ability for such duty.”

5 **SEC. 103. EFFECTIVE DATE.**

6 (a) IN GENERAL.—Except as otherwise provided in
7 this section, the amendments made by this title shall apply
8 to taxable years ending after the date of the enactment
9 of this Act.

10 (b) CHANGES IN COMPUTATION OF INTEREST.—The
11 amendments made by section 101(e) shall apply to with-
12 draws made after December 31, 1998, including for pur-
13 poses of computing interest on such a withdrawal for peri-
14 ods on or before such date.

15 (c) QUALIFIED LEASES.—The amendments made by
16 section 101(a) shall apply to leases in effect on, or entered
17 into after, December 31, 1998.

18 (d) AMENDMENT TO THE TARIFF ACT OF 1930.—
19 The amendment made by section 102 shall apply with re-
20 spect to entries not yet liquidated by December 31, 1998,
21 and to entries made on or after such date.

1 **TITLE II—ELECTION TO EX-**
 2 **PENSE UNITED STATES FLAG**
 3 **VESSELS**

4 **SEC. 201. ELECTION TO EXPENSE CERTAIN UNITED STATES**
 5 **FLAG VESSELS.**

6 (a) IN GENERAL.—Part VI of subchapter B of chap-
 7 ter 1 of the Internal Revenue Code of 1986 is amended
 8 by inserting after section 179A the following new section:

9 **“SEC. 179B. DEDUCTION FOR UNITED STATES FLAG VES-**
 10 **SELS.**

11 “(a) TREATMENT AS EXPENSES.—A taxpayer may
 12 elect to treat the cost of any vessel that is a qualified
 13 United States flag vessel as an expense which is not
 14 chargeable to its capital account.

15 “(b) YEAR IN WHICH DEDUCTION ALLOWED.—The
 16 deduction under subsection (a) shall be allowed for the
 17 taxable year in which the vessel first becomes a qualified
 18 United States flag vessel.

19 “(c) DEFINITIONS.—

20 “(1) QUALIFIED UNITED STATES FLAG VES-
 21 SEL.—For purposes of this section, the term ‘quali-
 22 fied United States flag vessel’ means a United
 23 States flag vessel that is operated exclusively in the
 24 foreign trade of the United States.

1 “(2) COST.—For purposes of this section, the
 2 term ‘cost’ means an amount equal to the lesser
 3 of—

4 “(A) the purchase price of the vessel, or

5 “(B) the adjusted basis of the vessel, de-
 6 termined under section 1011, at the time that
 7 the vessel becomes a qualified United States
 8 flag vessel.

9 “(d) BASIS REDUCTION.—

10 “(1) IN GENERAL.—For purposes of this title,
 11 the basis of any property shall be reduced by the
 12 portion of the cost of such property taken into ac-
 13 count under subsection (a).

14 “(2) ORDINARY INCOME RECAPTURE.—For
 15 purposes of section 1245, the amount of the deduc-
 16 tion allowable under subsection (a) with respect to
 17 any property which is of a character subject to the
 18 allowance for depreciation shall be treated as a de-
 19 duction allowed for depreciation under section 167.”

20 (b) CONFORMING AMENDMENTS.—

21 (1) Paragraph (1) of section 263(a) of such
 22 Code is amended by striking “or” at the end of sub-
 23 paragraph (G), by striking the period at the end of
 24 subparagraph (H) and inserting “; or”, and by add-
 25 ing at the end the following new subparagraph:

1 “(I) expenditures for which a deduction is
2 allowed under section 179B.”.

3 (2) Subparagraph (B) of section 312(k)(3) of
4 such Code is amended by striking “or 179A” each
5 place it appears and inserting “, 179A, or 179B”.

6 (3) Subparagraph (C) of section 1245(a)(2) of
7 such Code is amended by inserting “179B,” after
8 “179A,”.

9 (4) The table of sections for part VI of sub-
10 chapter B of chapter 1 of such Code is amended by
11 inserting after the item relating to section 179A the
12 following new item:

“Sec. 179B. Deduction for United States flag vessels.”

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years ending after the
15 date of the enactment of this Act.

16 **TITLE III—INCOME EXCLUSION** 17 **FOR MERCHANT SEAMEN**

18 **SEC. 301. INCOME OF MERCHANT SEAMAN EXCLUDABLE** 19 **FROM GROSS INCOME AS FOREIGN EARNED** 20 **INCOME.**

21 (a) SECTION 911 EXCLUSION.—Section 911(d) of the
22 Internal Revenue Code of 1986 (relating to citizens or
23 residents of the United States living abroad) is amended
24 by redesignating paragraph (9) as paragraph (10) and by
25 inserting after paragraph (8) the following:

1 “(9) APPLICATION TO CERTAIN MERCHANT MA-
2 RINE CREWS.—In applying this section to an indi-
3 vidual who is a citizen or resident of the United
4 States and who is employed for a minimum of 90
5 days during a taxable year as a regular member of
6 the crew of a vessel or vessels owned, operated, or
7 chartered by a United States citizen—

8 “(A) the individual shall be treated as a
9 qualified individual without regard to the re-
10 quirements of paragraph (1); and

11 “(B) any earned income attributable to
12 services performed by that individual so em-
13 ployed on such a vessel while it is engaged in
14 transportation between the United States and a
15 foreign country or possession of the United
16 States shall be treated (except as provided by
17 subsection (b)(1)(B)) as foreign earned income
18 regardless of where payments of such income
19 are made.”

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years ending after the
22 date of the enactment of this Act.

1 **TITLE IV—EXEMPTION FROM**
 2 **ALTERNATIVE MINIMUM TAX**

3 **SEC. 401. EXEMPTION FROM ALTERNATIVE MINIMUM TAX**
 4 **FOR CORPORATIONS THAT OPERATE UNITED**
 5 **STATES FLAG VESSELS.**

6 (a) IN GENERAL.—Section 55 of the Internal Rev-
 7 enue Code of 1986 is amended by adding at the end the
 8 following new subsection:

9 “(f) EXEMPTION FOR CORPORATIONS THAT OPER-
 10 ATE UNITED STATES FLAG VESSELS.—

11 “(1) IN GENERAL.—The tentative minimum tax
 12 of a corporation shall be zero for any taxable year
 13 in which the corporation is a qualified corporation.

14 “(2) DEFINITIONS.—For purposes of this
 15 subsection—

16 “(A) QUALIFIED CORPORATION.—The
 17 term ‘qualified corporation’ means any domestic
 18 corporation if—

19 “(i) substantially all of the assets of
 20 such corporation are related to the mari-
 21 time transportation business, and

22 “(ii) such corporation owns or demise
 23 charters a fleet of 4 or more qualified
 24 United States flag vessels.

1 “(B) QUALIFIED UNITED STATES FLAG
 2 VESSEL.—The term ‘qualified United States
 3 flag vessel’ means a United States flag vessel
 4 having a deadweight tonnage of not less than
 5 10,000 deadweight tons that is operated exclu-
 6 sively in the foreign trade of the United States
 7 during each of the 360 days immediately pre-
 8 ceding the last day of the taxable year. Days
 9 during which the vessel is drydocked, surveyed,
 10 inspected, or repaired shall be considered days
 11 of operation for purposes of this subsection.

12 “(C) FOREIGN TRADE.—The term ‘foreign
 13 trade’ has the meaning given to such term by
 14 section 7518(i)(2).”

15 (b) EFFECTIVE DATE.—The amendment made by
 16 this section shall apply to taxable years ending after the
 17 date of the enactment of this Act.

18 **TITLE V—CONVENTIONS ON** 19 **UNITED STATES-FLAG CRUISE** 20 **SHIPS**

21 **SEC. 501. CONVENTIONS ON UNITED STATES-FLAG CRUISE** 22 **SHIPS.**

23 (a) IN GENERAL.—Section 274(h)(2) of the Internal
 24 Revenue Code of 1986 (relating to conventions on cruise
 25 ships) is amended by striking “that—” and all that follows

1 through “possessions of the United States.” and inserting
2 “that the cruise ship is a vessel registered in the United
3 States.”

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to taxable years ending after
6 the date of the enactment of this Act.

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